BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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In the Matter of the Application of San Gabriel Valley Water Company (U337W) for Authority to Increase Rates Charged for Water Service in its Fontana Water Company Division By $5,662,900 or 13.1% in July 2006, $3,072,500 or 6.3% in July 2007, and $2,196,000 or 4.2% in July 2008.	A.05-08-021 (Filed August 5, 2005)
Order Instituting Investigation on the Commission's Own Motion into the Rates, Operations, Practices, Service, and Facilities of San Gabriel Valley Water Company (U337W)	I.06-03-001 (Filed March 2, 2006)

REPLY COMMENTS OF THE DIVISION OF RATEPAYER ADVOCATES TO COMMISSIONER JOHN BOHN'S ALTERNATE DECISION

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March 7, 2007

Pursuant to Rule 14.3 of the Commission's Rules of Practice and Procedure and the schedule set by Administrative Law Judge ("ALJ") Barnett on March 5, 2007, the Division of Ratepayer Advocates ("DRA") hereby respectfully submits its Reply Comments in Commissioner John Bohn's Alternate Decision ("AD") in San Gabriel Valley Water Company's ("San Gabriel" or the "Company") application to increase rates in its Fontana District.

I. SAN GABRIEL MISREPRESENTS THE LAW, FACTS, AND THE CONDITION OF THE RECORD WHEN ARGUING THAT THE PD WRONGLY CONCLUDES IT VIOLATED AN AFFILIATE TRANSACTION RULE AND ERRS IN IMPOSING PENALTIES AGAINST SAN GABRIEL FOR ITS PURCHASE OF LAND FOR A NEW OFFICE COMPLEX

A. San Gabriel misrepresents the facts and the condition of the record by asserting that the transaction was "fully disclosed and undisputed."

San Gabriel states in its Comments to Commissioner Bohn's AD that its witnesses testified that the Company bought a 4.75 acre site for a new office complex from its affiliate, Rosemead, at a price based on a formal, independent appraisal by a licensed real estate appraiser. *See* p.8-9. The Company also argues that it discussed the transaction with DRA's consultants during it first GRC field visit and provided full documentation to them. San Gabriel, however, only disclosed to DRA's consultants that it had bought 4.75 acres from Rosemead for $1,102,000 at fair market value, but did not disclose that the 4.75 acres was part of Rosemead initial purchase of 8.72 acres at $1,148,272 from a non-affiliated third party in 2003. *See* Exh. #45 & #48. San Gabriel did not fully disclose the facts associated with the purchase and then the resale of the land to the regulated operation in its rate case application, A.05-08-021.

DRA's consultants had to issue a data request to San Gabriel and conduct its own thorough analysis to discover that San Gabriel only purchased "half" the original acreage Rosemead originally purchased for $1,148,272. Despite only purchasing "half" or 4.75 acres, San Gabriel still virtually paid the same amount Rosemead did in its original purchase. This was an excessive mark-up from the original cost of the land purchase by

the real estate affiliate. Thus, San Gabriel was not forthright in fully disclosing the details of this affiliate transaction.

B. San Gabriel misrepresents the law by arguing that it did not violate any Commission rule or statute.

San Gabriel alleges that there is no specific affiliate transaction rule applicable to it, and therefore it has not violated any Commission rules or regulations in its affiliate transaction between Rosemead and San Gabriel. *See* San Gabriel AD Comments, p. 8-13. This argument is disingenuous and should be dismissed. The Commission has historically scrutinized transactions between regulated utilities and affiliated corporations and has in several cases imposed disallowances to account for excessive payments to unregulated affiliates. The Commission has the authority to review transactions between a utility and its affiliate to determine if it constitutes an arms-length transaction and whether ratepayers have been harmed.

Based on the facts presented in this case, the PD and the AD correctly find that ratepayers will be harmed as a result of Rosemead land sale to San Gabriel. Rosemead sold 4.75 acres of an 8.72 acre plot at nearly double the price it originally cost the affiliate. More troubling is San Gabriel's decision to hold the land for nearly two years to let it appreciate before charging the regulated operations an inflated price instead of selling it when it was purchased. Thus, the PD and the AP appropriately find that the Rosemead transaction was not an arms-length agreement and that it was clearly self-dealing between the Rosemead and San Gabriel.

The California Supreme Court has held that for ratemaking purposes, the Commission may disallow excessive and unreasonable payments between affiliated corporations. *See* Pacific Telephone and Telegraph Company v Public Utilities Commission (1965) 62 Cal 2d 634, 659. In addition, the Commission may disregard the separate corporate entities established around the regulated enterprise and may regard the operations of the separate entities and the operations of the corporate enterprise as a whole. *See* General Telephone of California v Public Utilities Commission (1983) 34 Cal 817, [*3]; City of Los Angeles v Public Utilities Commission (1972) 7 Cal 3rd 331, 344.

Thus, San Gabriel misinterprets the law by alleging the Commission lacks the authority to make such an adjustment simply because there is no specific affiliate rule applicable to San Gabriel.

Finally, the Commission can appropriately rely on basic ratemaking principles it has followed in evaluating affiliate transaction guidelines in other industries, such as telecommunications and energy. One of the basic premises in preventing inappropriate cross-subsidization between affiliates and monopoly operations is to require that transfers or sales from the affiliate to the utility to be priced at the lower of cost or market. The Rosemead sale has failed this basic ratemaking principle.

Respectfully submitted,

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March 7, 2007

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of **REPLY COMMENTS OF THE DIVISION OF RATEPAYER ADVOCATES TO COMMISSIONER JOHN BOHN'S ALTERNATE DECISION** in **A.05-08-021** and **I.06-03-001** by using the following service:

[x] **E-Mail Service:** sending the entire document as an attachment to all known parties of record who provided electronic mail addresses.

[ ] **U.S. Mail Service:** mailing by first-class mail with postage prepaid to all known parties of record who did not provide electronic mail addresses.

Executed on 7th day of March, 2007 at San Francisco, California.

/s JANET V. ALVIAR
Janet V. Alviar

N O T I C E

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